

PRE-APPEAL BRIEF REQUEST FOR REVIEW
- Expedited Examining Procedure -
Examining Group 1794

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Inventor(s):
Francoise M. Thomas

Group Art Unit: 1794
Examiner: Gregory D. Clark

METHOD FOR IMPROVING
THE OZINE STABILITY OF
AN INKJET RECORDING
ELEMENT

Serial No.: 10/551,832

Filed: October 03, 2005

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request pre-appeal brief review of the final Office Action dated October 15, 2009, and the Advisory Action dated January 5, 2010, in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

Claims 1-6 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (US 6,344,262) in view of Lofquist (US 4,083,893). The Examiner states Suzuki discloses an ink jet recording element containing a support and a porous layer (ink receiving layer) containing alumina hydrate (inorganic filler) and Mg ions/SCN ions (abstract), that Suzuki further discloses that the Mg ions and SCN ions are added to improve the ozone resistance (column 1, lines 54-55), and that Suzuki further mentions that the support (substrate) can include paper sheets and cloths (column 2, lines 13-14). While acknowledging Suzuki fails to disclose the use of sulfonic polystyrene as a component of the ink

receiving layer to improve the ozone resistance, the Examiner notes Lofquist discloses a printable nylon (cloth) substrate that contains a magnesium or calcium salt of sulfonated polystyrene to provide lightfastness and ozone resistance (abstract). The examiner takes the position that the cloth substrate disclosed by Suzuki is inclusive of the nylon substrate disclosed by Lofquist and the methods disclosed by both references merely represents two functionally equivalent approaches to achieve ozone resistance on printable media, and asserts that it would have been obvious to a person of ordinary skill in the art to have selected from known approaches to render a printable substrate more ozone resistant which would have included the use of the salt of sulfonated polystyrene as disclosed by Lofquist. This rejection represents clear error for at least the following reasons.

As essentially noted by the Examiner, Lofquist is directed towards a dyeable nylon cloth. Such dyeable nylon material is clearly distinct from an inkjet recording element comprising a porous ink-receiving layer. While Suzuki does disclose an ink jet recording medium including a porous layer coated over a support, and discloses that the support thereof may include paper sheets and cloths, the asserted rejection represents clear error as the Examiner has not in any way explained how such combination of such references teach or suggest the actual presently claimed invention so as to establish a prima facie case of obviousness. While the combination of such references as proposed by the Examiner might suggest use of the sulfonic polystyrene salts of Lofquist in a cloth substrate used as a support for a dye-receiving element of Suzuki based on the Examiner's assertions that the cloth substrate disclosed by Suzuki I inclusive of the nylon substrate disclosed by Lofquist (e.g., if one were concerned about dye fade of cationic dyed nylon fibers of such a cloth substrate as taught by Lofquist), it does not teach or suggest use of such sulfonic polystyrene salt in an inkjet recording element porous receiving layer in accordance with the actually claimed present invention even if provided over such a cloth substrate of Suzuki. Accordingly, the actual teachings of the asserted combination of references clearly does not establish a prima facie case of obviousness with regard to the actually claimed invention.

Lofquist is further specifically directed towards cationic dyeable nylon materials, while conventionally employed inkjet printing dyes are typically not cationic. Accordingly, there is no teaching and there would be no motivation

based on Lofquist to employ such materials in the porous layer of the ink jet recording medium of Suzuki. Rather, as Suzuki is specifically directed towards use of Mg and SCN ions in such porous receiving layer coated over a substrate (which admittedly itself may be a cloth) in order to obtain performance features specifically attributed to such Mg and SCN ions, the proposed substitution of other materials therefore which are taught only for use with other distinct materials (i.e., nylon) as proposed by the Examiner would go against the actual requirements of the teachings of Suzuki to employ Mg and SCN, and therefore clearly not be suggested or otherwise obvious to one skilled in the art. The cationic dyeable nylon cloth of Lofquist and the porous layer of the ink jet recording medium of Suzuki are clearly non-analogous materials, and the proposed combination of such references would not teach or suggest the present claimed invention. In view thereof, it follows that the asserted rejection of the subject matter of the claims as being obvious over Suzuki in view of Lofquist is in clear error. Withdrawal of this rejection is accordingly respectfully urged.

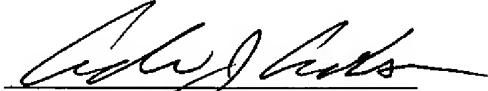
The Advisor Action continues to fail to establish a prima facie case of obviousness, as the further arguments presented by the Examiner continue to be directed towards the obviousness of employing the materials of Lofquist in the element of Suzuki based on the use of such materials in a nylon cloth in Lofquist, and the suggestion that the support of Suzuki may be made of paper or cloth based materials. Again, such combination would only possibly lead to the use of the materials of Lofquist in the support of the element of Suzuki, rather than in the porous ink receiving layer of the element of Suzuki. A prima facie case of obviousness is accordingly clearly still not established.

Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Lofquist and further in view of Sadasivan (US 6,419,356). The Examiner states Suzuki discloses that the inkjet recording element contains inorganic fillers (alumina hydrate, metal hydroxide) (abstract) but fails to mention fumed alumina or calcium carbonate; Sadasivan discloses an ink jet element where the receiving layer contains inorganic particles (abstract) that can include alumina, silica, fumed silica, boehmite and calcium carbonate (column 3, lines 38-44); Sadasivan further discloses that the particles are present to create a porous layer so that the solvent in the ink can travel through the layer to a support or

base layer (column 3, lines 50-55); and that it would have been obvious to a person of ordinary skill in the art at the time of the invention to have selected from known inorganic fillers such as those taught by Sadasivan which read on the applicants' claimed fillers, absent unexpected results. This rejection represents further clear error, as while Sadasivan may disclose use of the claimed types of inorganic fillers, it does not overcome the basic deficiencies of the primary references, as it also does not teach or suggest use of a sulfonic polystyrene in a porous ink receiving layer of an ink jet recording element. Withdrawal of such rejection is accordingly respectfully urged.

In view of the foregoing remarks a prompt and favorable action in response to this request is earnestly solicited.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.